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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/440,624	11/16/1999	YUTAKA MAEDA	0879-0244P	3184
7590 11/05/2004				
BIRCH STEWART KOLASCH & BIRCH LLP				
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			EXAMINER	
			LONG, HEATHER R	
		ART UNIT	PAPER NUMBER	
		2615		

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/440,624	MAEDA, YUTAKA	
	Examiner	Art Unit	
	Heather R Long	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 16-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 11/18/1998. It is noted, however, that applicant has not filed a certified copy of the 10-328494 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 16-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (U.S. 6,614,477) and in view of Applicant's admitted prior art.

Regarding claim 1, Lee et al. discloses an electronic camera, comprising:  
a display (it is implicit that the composite video signal will inherently go to a display); an imaging device (42) which captures the sequence of images and outputs the image signals for the sequence of images to a display at a rate defined by an imaging cycle to the imaging device, the imaging cycle defining a

maximum exposure period for the imaging device for the sequence of images (for example, if the maximum imaging cycle is 1/60 then the maximum exposure period would be defined as 1/60 as well; col. 2, lines 12-22; col. 3, lines 25-63); and a changing device (55: variable frame rate image capture controller) which changes the imaging cycle of the imaging device, thereby changing the maximum exposure period for the imaging device (col. 4, line 53 – col. 5, line 3). However, Lee et al. fails to disclose a controller which controls the display to display the sequence of images according to the image signals while the imaging device is capturing subsequent images, such that the display shows a live image of the captured sequence of images to enable determination of an image-capturing angle of view.

Referring to the admitted prior art, the admitted prior art teaches a display (LCD), and an electronic camera that is capable of displaying a live image on the LCD so that the LCD can be used as a viewfinder to determine the image-capturing angle of view (page 1, lines 9-14). The controller that controls the display to display the image according to the image signals while the imaging device is capturing the live image is inherently taught.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the practice of changing the imaging cycle taught by Lee et al. with the practice of displaying a live view taught by the admitted prior art to make an apparatus wherein the imaging device continually outputs an image signal to the display in the cycle and wherein the cycle may be

changed in order to detect how the image quality of a desired scene changes according to the varying exposure times and imaging cycles.

Regarding claim **2** and **3**, Lee et al. in view of the admitted prior art discloses all subject matter as discussed with respect to claim 1 as well as the changing device is manually or automatically operated to change the cycle of the imaging device (Lee et al.: col. 5, lines 43-45).

Regarding claim **16**, Lee et al. in view of the admitted prior art discloses all the subject matter as discussed with claim 1, as well as that the electronic camera further comprises a signal processor for processing (45) the image signals outputted by the imaging device before outputting to the display. Official Notice is taken that the signal processor temporarily stores the image signals from the imaging device into a buffer before outputting to the display.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a signal processor temporarily store the image signals outputted by the imaging device into a buffer before outputting to the display in order to accommodate the timing differences between the signal processor and the display.

Regarding claim **17**, Lee et al. in view of the admitted prior art discloses all the subject matter as discussed with claim 1, except that the electronic camera further comprises a memory card for storing select images outputted by the imaging device. Official Notice is taken that a memory card can be used to store select images outputted by the imaging device.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a memory card to store select images outputted by the imaging device in order save the images most desired by the user.

Regarding claim **18**, Lee et al. in view of the admitted prior art discloses all subject matter as discussed with respect to claim 1 as well as disclosing that the rate is a video rate (col. 2, lines 12-14), and the changing device (55) changes the video rate to enable the imaging device to output brighter images to the display (it is implicit that the longer the longer exposure period is the brighter the image will be, which in turn the display will inherently display a brighter image when the video rate is longer because the longer the video rate is the longer the exposure period can be).

Regarding claim **19**, Lee et al. in view of the admitted prior art discloses all subject matter as discussed with respect to claim 1 as well as disclosing the imaging device is a charge coupled device (CCD) (Lee et al.: reference character "42") that captures the sequence of images.

Regarding claims **20-26**, these are method claims corresponding to the apparatus claims 1-3 and 16-19. Therefore, claims 20-26 are analyzed and rejected as previously discussed with respect to claims 1-3 and 16-19.

**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Heather R Long whose telephone number is 703-305-0681. The examiner can normally be reached on Mon. - Thurs.: 7:00 am - 4:30 pm, and every other Fri.: 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on (703) 308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Heather R Long  
Examiner  
Art Unit 2615

HRL  
November 1, 2004

  
TUAN HO  
PRIMARY EXAMINER